United States Department of Labor Employees' Compensation Appeals Board

B.A., Appellant))
and) Docket No. 20-1625
DEPARTMENT OF THE AIR FORCE, KIRTLAND AIR FORCE BASE, NM, Employer) Issued: May 5, 2021)
Appearances: Appellant, pro se Office of Solicitor, for the Director	Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On September 11, 2020 appellant filed a timely appeal from an August 13, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether OWCP properly suspended appellant's compensation benefits, effective August 16, 2020, for failure to complete a Form CA-1032 as requested.

¹ 5 U.S.C. § 8101 et seq.

² The Board notes that, following the August 13, 2020 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this evidence for the first time on appeal. *Id*.

FACTUAL HISTORY

On May 1, 1998 appellant, then a 44-year-old crane operator, filed a traumatic injury claim (Form CA-1) alleging on that day he was lifting a bundle of 30-inch steel beams, when the banding strap broke injuring his forearms while in the performance of duty. OWCP accepted the claim for bilateral epicondylitis. It paid appellant wage-loss compensation on the supplemental rolls, commencing November 1, 2002, and then on the periodic rolls, commencing March 23, 2003. OWCP later expanded the claim to include extensor carpi radialis brevis tear, right (resolved as of July 29, 2001), and osteoarthritis of left and right elbow.

OWCP periodically requested that appellant submit financial disclosure statements (Form CA-1032), which solicited information about his employment, volunteer work, dependent(s) status, receipt of other federal benefits and/or payments, and third-party settlements.

On July 13, 2020 OWCP notified appellant that he was required to fully answer all questions on the enclosed CA-1032 form and return it within 30 days or his benefits would be suspended. It mailed the notice to appellant's last known address. No response was received.

By decision dated August 13, 2020, OWCP suspended appellant's compensation benefits, effective August 16, 2020, for failing to complete the CA-1032 form as requested. It advised that, if appellant were to complete and return the form, his compensation benefits would be restored retroactively to the date they were suspended.

LEGAL PRECEDENT

Section 8106(b) of FECA authorizes the Secretary of Labor to require a partially disabled employee to report his or her earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies.³

Under section 10.528 of OWCP's implementing federal regulations, an employee in receipt of compensation benefits must complete an affidavit as to any work or activity indicating an ability to work, which the employee has performed for the prior 15 months.⁴ If an employee who is required to file such a report fails to do so within 30 days of the date of the request, his or her right to compensation for wage loss is suspended until OWCP receives the requested report. At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.⁵

³ 5 U.S.C. § 8106(b).

⁴ 20 C.F.R. § 10.528. *See also H.B.*, Docket No. 19-0405 (issued June 26, 2019); *M.S.*, Docket No. 18-1107 (issued December 28, 2018); *C.C.*, Docket No. 17-0043 (issued June 15, 2018); *A.H.*, Docket No. 15-0241 (issued April 3, 2015).

⁵ *Id.*; see also id. at § 10.525.

<u>ANALYSIS</u>

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective August 16, 2020, for failure to complete the CA-1032 form as requested.

On July 13, 2020 OWCP provided appellant with a CA-1032 form. It properly advised him that, if he did not completely answer all of the questions and return the form within 30 days, his benefits would be suspended. The record reflects that OWCP's letter was properly sent to appellant's last known address of record and there is no indication that it was returned as undeliverable.⁶ Under the mailbox rule, a document mailed in the ordinary course of the sender's business practices to the addressee's last known address of record is presumed to be received by the addressee.⁷

The record indicates that appellant failed to timely submit the CA-1032 form within 30 days of OWCP's request. Appellant was receiving wage-loss compensation and he was, therefore, required to complete the CA-1032 form. His failure to file a CA-1032 form within 30 days resulted in the suspension of compensation. Thus, the Board finds that OWCP properly suspended appellant's compensation benefits, effective August 16, 2020, pursuant to 20 C.F.R. § 10.528.

CONCLUSION

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective August 16, 2020, for failure to complete a CA-1032 form as requested.

⁶ See H.B., supra note 4; J.J., Docket No. 13-1067 (issued September 20, 2013); Kenneth E. Harris, 54 ECAB 502, 505 (2003).

⁷ *Id*.

ORDER

IT IS HEREBY ORDERED THAT the August 13, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 5, 2021 Washington, DC

> Alec J. Koromilas, Chief Judge Employees' Compensation Appeals Board

> Janice B. Askin, Judge Employees' Compensation Appeals Board

> Patricia H. Fitzgerald, Alternate Judge Employees' Compensation Appeals Board